IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL NO. 108 OF 2002

Office Notes, Office Memoranda of : coram, appearances, Court's Orders: or directions and Registrar Orders:	Court's or Judge's orders

Mr.R.S. Bhalerao for the Appellant.

CORAM : H.L. GOKHALE &
MRS. R.S. DALVI, JJ.

DATE : 21ST OCTOBER 2005

P.C. :

1. Heard Mr.Bhalerao for the Appellant. He informs that a telegram containing notice has been sent to the Respondent's Advocate informing that the matter will be listed today and orders will be sought to withdraw the Appeal. None is present for the Respondent.

2. The Appellant and the Respondent were married on 29th November 1993 at Pune. They resided together at Pune. After the disputes started between the parties, the Respondent wife shifted to her parents' home in Mumbai. The Appellant filed a petition for divorce

in Pune being Petition No.A-194 of 1998 on the ground of cruelty. That came to be dismissed by a judgment rendered by the Family Court at Pune on 11th May 2001. The present Appeal seeks to challenge that judgment. The same has been admitted on 29th November 2002 and has been pending for disposal.

3. In the meanwhile, the parties have arrived at an understanding and on the footing that the Respondent wife is staying in Mumbai, they filed a joint petition under section 13B of the Hindu Marriage Act being Petition No.F-676 of 2005 seeking a divorce by consent. In that petition, it was disclosed to the court that a petition had earlier been filed in the Court at Pune, the same was dismissed and that the appeal therefrom is pending in the High Court. It was also stated in para 8 of the petition that the appeal will be withdrawn. It is on that footing that the said consent petition was allowed by the learned Judge of the Family Court on 12th August 2005. The custody of the child has been given to the

Respondent and appropriate arrangement for alimony has also been made. A copy of that petition and the order passed therein are placed before us which we take on record.

4. In view of this development, all that Mr.Bhalerao states is that the controversy no longer survives and he therefore seeks withdrawal of the Appeal. Appeal allowed to be withdrawn. The order passed by the Family Court at Mumbai in Petition No.F-676 of 2005 will govern the dispute which was raised earlier in Petition No.A-194 of 1998 and the order passed by the Family Court on 12th August 2005 will hold the field.

5. Appeal stands disposed of as not pressed.

(H.L. GOKHALE, J.)

(MRS. R.S. DALVI, J.)